

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 1904/Kol/2024
Assessment Year: 2018-19

ITO, Matigara	Vs.	Matigara Realtors Pvt. Ltd. (PAN: AALCM 3699 M)
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	23.10.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	25.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri Diraj Lakhotia, A.R
For the Respondent/ राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 29.07.2024 for AY 2018-19.

2. The only issue raised in the various grounds of appeal is against the order of Ld. CIT(A) accepting the contention of the assessee that the transactions in respect of

properties were only on leasehold basis and therefore not covered by the provisions of Section 56(2)(x) of the Act.

3. Facts in brief are that the assessee filed return of income during the assessment year on 31.12.2018 declaring total income of Rs. 2,90,730/-. The case of the assessee was selected for scrutiny to examine the investment in the properties. Accordingly, statutory notices were duly issued and served on the assessee. During the course of assessment proceedings, the AO observed that the assessee company had purchased three immovable properties located at Siliguri, West Bengal on 06.02.2018 & 28.02.2018. As per stamp valuation authority, the value of properties were Rs. 46,41,840/-, Rs. 2,31,36,000/- and Rs. 39,51,360/- respectively. The assessee submitted before the AO that these properties were simply taken on leasehold basis and were not transactions of purchase of properties and therefore did not falls within the ambit of provisions of Section 56(2)(x) of the Act. However, the AO brushed aside the contentions of the assessee and invoked the provisions of Section 56(2)(x) and made an addition of Rs. 3,03,72,500/- to the income of the assessee by taking the value of properties as per stamp valuation authority by allowing the deduction of lease premium.

4. In the appellate proceedings, the Ld. CIT(A) allowed the appeal of the assessee by observing and holding that the provisions of section 56(2)(x) are not applicable to lease hold transactions.

5. After hearing the rival contentions and perusing the material on record, we find that undisputedly the assessee has not purchased any land or building but only taken three properties on lease for which the assessee has paid lease premium of Rs. 13,57,300/-. The AO invoked the provisions of Section 56(2)(x) of the Act by taking the value of these properties as per stamp valuation at Rs. 3,17,29,800/- and thus computed the difference at Rs. 3,03,72,500/- and added the same to income u/s 56(2)(x) of the Act.. The Ld. CIT(A) allowed the appeal of the assessee on the ground that the transfer of leasehold rights in land is not covered u/s 56(2)(x) of the Act and stamp duty valuation is not relevant in that case. We have perused the order of Ld. CIT(A) carefully and found

that the Ld. CIT(A) has passed a correct and reasoned order on this issue. The case of the assessee finds support from the several decisions namely (i) CIT Vs Greenfield Hotels and Estate (P) Ltd 2017(389 ITR 68 (Bom) and Britannia Industries Ltd. Vs PCIT 2024(161) taxmann.com 705(Kolkata Tri). Accordingly, we are inclined to dismiss the appeal of the revenue by upholding the order of Ld. CIT(A).

6. In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 25th November, 2024

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)
Vice-President/उपाध्यक्ष

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 25th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ITO, Matigara
2. Respondent – Matigara Realtors Pvt. Ltd, 1B, Sunny Tower Sevoke Road, Siliguri-734001
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata